

Previous references

do 103-06
80-03

Aug 6-03

be Later References

1909

(Legislation

File No. 6-09

Serial Nos. 1-4

(P-95)

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. four

Part B ^A ~~for~~ Manuscript 1

SUBJECT

Amendment of the Chief Court Regulation

regarding second Appeals

2)
C/A 405

previous references.

file No. 6 of 1909

GOVERNMENT OF THE MICHIGAN TERRITORY

PROCEEDINGS OF THE GENERAL AND REVENUE COMMISSION

JUDICIAL AND LEGISLATIVE

(Legislation).

Collector

Serial No. 164

amendment of the Supreme Chief Court
regulation regarding Secured Appeals

Table of contents

Number and date of letter and contents

Refer-
ence.

to

Letter NO 853/43 dated 12/13 August
1909 from the Registrar, Chief
Court of - gone Bangalore

Suggest certain proposals
regarding the disposal appeals by
a single judge of the Chief Court
+ bestowal of powers of an Assistant
Sessions judge on the Subordinate
Judge Bangalore

Letter NO J 1047 dated 2nd Dec 1909
to the Registrar, Chief Court

(a)

Requests him to furnish Govern-
ment with the opinion of the
Chief Court as to whether it is
not desirable that criminal appeals

should continue to be heard by a
French Consulate or two judges

Letter NO 1388 dated 5th October 1910
to the Hon^{ble} The Resident
in Mysore Bangalore.

Forwards a copy of the same
with the statement of object
& reasons and states that
the bill will be placed before
the Legislative Council

4

Letter NO 15106 dated 14th November
1910. from the First Assistant
to the Hon^{ble} The Resident in
Mysore

states that the Resident has
no objection to the Bill being
laid before the Legislative Council

1908-10

GENERAL AND REVENUE SECRETARIAT

(Legislation)

NOTES.

(File No. 6 of 08.)

FILE HEADING.

Amendment of the Chief Court Regulation.

FROM

The Registrar of the Chief Court of Mysore

Jen. No. 753/43

Dated 13/8/08

Received 14/8/08.

Diary No. 7436

Enclos. one Spare Copies

Serial No.

BRIEF ABSTRACT OF LETTER.

States that with a view to avoid congestion of work in the Chief Court, Sec 15(1) of the Chief Court Regulation may be so amended as to enable a single judge to dispose of petty appeals; that this, if given effect - will bring the Courts of the Bangalore District into line with the Courts of the other 2 Districts; that much valuable time is lost at present owing to a bunch of judges having to deal for the disposal of such petty appeals; that Secs 582 & 586 of Code of Civil Pro. be brought into line with those of the B. Indian Code & the Madras Code of the Bangalore. may be made an Additional Judge for the trial of such cases as may be made over to him, and forwards a draft of amendment to the Chief Court Regulation.

NOTES AND ORDERS.

Secretary's remarks on the letter of 14/8/08.

"Let me see this with reference early -"

K. S. Chinnappa

Subd.

The references referred to in para 1 of

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The Chief Court Registrar's letter have been sub-
mitted with the file relating to preferring of
appeals against orders of acquittals passed
by the a judge of the Chief Ct. in the Sessions
Division. A copy of the Chief Ct. Regulation as
~~not~~ amended by Reg II of 1890 is submitted with
the ^{present} file relating to the proposal to make higher
classes of appeals throughout the State lie in
to the Chief Court.

2 The questions relating to ^{Sections} 582 & 586 of the
Code of Civil Pro: & the jurisdiction of the Sub
Judge of Bangalore with powers of an Assistant
and Sessions judge have perhaps to be dealt
with ~~the~~ ^{one} when the Bill is taken for dis-
cussion at the meeting of the Legislative Council
and the other in the Courts Section. If appropriate
extracts will be taken of passages relating to
these ~~and~~ so that the 2 questions may be dealt
with separately.

Subd for orders.

~~18/8/09~~ 5/10/09 Please submit the notes of
the Judicial Conference referred
to if available early

Yours
18/8/09 Off S. Hiriyama
submitted

Subd: "As it is understood that the dis-
posal of the question in regard to which the

3

File No.

6

of 190

5

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file referred to above is put up is likely
to take up some time, this reference is
submitted for further orders, with the
legis file re amendment of ^{sections} ~~Sec~~ 582 and 583
of the C.B.C. From the discussions of the
Legislative Council dated the 12th Jan 1908 &
the 14th February 1908, it will be seen that this
~~proposal~~ ^{matter} was reserved for consideration in
connection with the amendment of the C.B.C.
then under consideration & now taken in hand
T. K. S.
25/8/07

The references perhaps
are not complete, as some of the
papers are perhaps in another file
which I believe is now with the Sec
or before the Council. As this is an
important reference, the file is submitted
for orders without waiting for the other papers.
The proposals of the Chief Court
consist of three parts only one of which
calls for special action now, the other
two having ref^{er} to the Civil Procedure
Code now under revision.

The Judges recommend that ~~all~~
all appeals ~~be~~ lying to the Chief Court
under Sec 14 of the Chief Court Regulation

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may be heard by a single judge of the Chief Court instead of by a bench of two judges as at present. Sec 14 refers to those appeals triable by the Chief Court which ordinarily would be triable by a District Court or Court of Session — in other words to what are usually called "Regular" or "First" appeals from the decisions of Munsiffs, Subjudges and 1st class Magistrates. It is further recommended that there may be a second appeal to a Bench of two judges from the decision of the single judge.

8 The proposal no doubt brings into line the procedure ^{in regard to second appeals} at Bangalore Division with that obtaining in Mysore & Shimoga, ~~and the same~~ and to that extent may be an advantage.

It may also facilitate the ~~the~~ speedy disposal of work in the Chief Court, as urged in the Registrar's letter

9 But ^{by the adoption of the proposal} the Chief Court will practically be split up into two parts viz one as a final Court of Appeal and Revision in the States and the

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other as an Ordinary District and
Sessions Court for the Bangalore Division.
How far this is consistent with the
prestige and authority usually
associated with the highest Court in
the land is a matter which deserves
careful consideration.

From the point of view of the
litigant the proposed change may
not be an unmissed blessing. He
will be tempted to try a second
appeal where for which there is no
provision now. The fact that a
Judge of the Chief Court ~~will~~ has
decided the first appeal will not
by itself ~~other~~ check the litigious tendencies
of our people.

If the proposal of under-
consideration commends itself to for
the draft amendment of Sec 15 propo-
sed by the Chief Court may be adopted,
the two other matters referred
to by the Registrar are in connection
with Secs 584 and 586 of the Civil
Procedure Code, specifying the which
specify the classes of cases in which
second appeals are allowed in Mysore

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in the State
As the law in this respect differs
from the corresponding provisions of the
British Indian Code, the Chief Court
recommend that we may adopt
the latter.

13 In Mysore a second appeal is
allowed on questions of fact in original
suits, when the decision of the first
Appellate Court differs from the finding
of the Court of first instance whereas
in British India the decision of the
Court of first appeal is final on all
questions of fact. Whether such decision
differs from or ~~conforms with~~ conform
with the decision of the original Court.

14 Our law was enacted
twenty five years ago ^{and was meant} ~~with a view~~ to
depart, advisedly, from the law of B
India. ~~and the~~ Chief Court do not say
any reason as to why we should
~~now~~ ^{now} retrace our
steps. ~~and the law is the same as that~~
The System ^{now in force} has given complete
satisfaction to the public, as may be
seen from the opposition which a
similar recommendation similar to the
one now under discussion would

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in the Legislative Council just a short time ago. There is no reason to suppose that the public will view the proposal now with any greater favour.

15 On the merits it is enough to state that where two judges ^{agree} there is - humanely speaking - as correct a decision ~~as is possible~~ as is possible and that when they differ, it is a fit case for examination by a higher tribunal as to which view more nearly ~~rep~~ represents the truth. The ^{British} India System simply makes the decision of the first appellate Court - which does not record the evidence or hear the witnesses - final. ~~Reason~~

16 Cases of divergent findings are not after all very many and can not seriously impede the work of the Chief Courts. It may therefore be considered whether it is worth while making the change in spite of public opinion.

17 Another matter on which the law in Mysore differs from that in British India is in regard to the second appeal in suits of a small cause.

x. In the draft Civil Procedure Bill the existing provisions of the Mysore Code is retained. The recommendation of the Chief Court may - if there is no objection - be referred to the Select Committee which will be appointed to consider the draft Bill.

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Limit of Rs 50/- to 100/- with
power to Government to further raise
it by means of a notification to
Rs 200/- This is perhaps as high a
figure as could be suggested for Mysore
having regard to the fact that on
the litigation ^{the average} ~~is~~ ^{is} exceedingly
poor, ~~It may be feared~~
~~that~~ ~~Even this provision may~~
~~arouse strong unfavourable public~~
~~criticism~~ and it is not unlikely
that even this may arouse hostile
criticism The matter will no doubt
receive due attention at the hands
of the Select Committee

2) The recommendation of
the Chief Court to invest the
Subordinate judges of ^{Bangalore} ~~Shimoga~~ with
the powers of an Assistant Sessions
Judge for the trial of such cases as
may be made over to him may be
approved. The Sub-judges of
Mysore and Shimoga are Asst.
Sessions Judges for the districts of
Mysore and Shimoga respectively.

8th
The papers have
since been received
and are put up:
attention is invited
to the views of the
Judicial Conference
held in 1902. Flag S

3/9/09

Secy

Secretary

30/8/09. S. H. V. G. M. S. H. V. G. M.

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10
21 Of the proposals now made by the Chief Court, those concerning a modification of the provisions relating to second appeals may be reserved for consideration when the new Civil Procedure Code Bill comes up for discussion in the Legislative Council (I do not think, personally, that the suggestion ~~reference~~ ^{about} taking away the right of second appeal in cases of divergent finding of fact is likely to find favour in any quarter; and its acceptance would be a retrograde step in every way. As regards second appeals in suits of a small cause nature, the course proposed to be adopted in connection with the new Bill, - to raise the limit from Rs 50 to Rs 100, with power to further raise it ^{by regulation} - is a material step forward in the direction desired by the Chief Court, & seems sufficient for the present.)

22 There is much to recommend the proposal to empower a single judge of the Chief Court to hear ^{first appeals} appeals lying to the Court under S. 14 of Regn I of 1884; ~~to transfer~~ and the amendment of that Regulation

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which would be necessitated by its adoption may be taken up at an early date. In fact, the draft of such amendment has been submitted into the Department's letter.

23rd The last proposal, — to appoint the Sub Judge of Bangalore an Assistant Sessions Judge, — is one which will give some measure of relief to the Chief Clerk; and effect may be given to it forthwith.

20 CV

K. S. Anandappa

4/9/09

24 The questions concerning the second appeal in facts & 2nd appeal in suits of a S. C. nature may be taken up in connection with the amendment of the Civil Code.

25th The Sess. Judge of Bangalore may be made an Asst. Sess. Judge for the whole division. This will not render it necessary for him to have 4222

1820

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*-0

High Courts please see pages 16-30, 31 to 44, 45 to 58 and 59 to 70 of the accompanying Compilation. ~~Under~~ See 36 of the Letters Patent all the functions of a High Court either in its original side or its appellate side may be performed by a Single Judge or Division Court consisting of 2 or more judges. Rules 51 & 60 of the rules framed by the High Court at Fort William are to the same effect. Rules for the other High Courts are not for the coming in this office library.

For further orders.

7/5/05 T.K.S

7/5/05

30 Please see Sec 13 of the Charter Act (24 & 25 Victoria Cap. 104) which expressly empowers Single Judge of the High Courts to exercise (Subject to any laws or regulations which may be made by the Governor General in Council) the original and Appellate jurisdiction vested in the High Courts.

31 Accordingly in the Charter issued to the High Court at Fort William in 1861 a similar provision is expressly retained in Sec 36. (Please consult Rule 51 of the Original side p. 91.)

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Against the de... a single
judge, an... provided for
in Civil Cases only, to a Division
Bench of the High Court. Please see
cl 15 of the Charter (Please also see 575 of the C.P.C.)

32 Evidently the Criminal appeals
are not tried by a single judge of the High
Court, ~~there~~ apparently because there
cannot be a further appeal (Please see cl. 6)

33 The ~~present~~ rules relating to
the High Courts are not readily available
but my idea is that at least in Madras
the rules are very similar to those of
Calcutta

S. Livingstone
8/9/09

Secy. 9/2/09 K.S. Chandrasekhar

34 I am inclined to support
the proposal of the B.C. Council
in civil appeals being heard by a
single judge and a further ap-
peal to two other judges.

35 The questions may first
be considered in Council

The High Court
is not com.
A single judge
of the High Court is
not incompetent
under the Charter to
hear a Criminal appeal
though the provision
is never exercised
S.H.

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and steps taken afterwards to
introduce the necessary regula-

tion -

A. V. Narayanaiah

14/9/09

37 Circulate copy of K. S. Chandraiah

15/9/09

S. Aravamudan

324
20.9.09

38 Seen viz I suggest that
the Chief Judge be requested
to be present at the meeting &
aid the deliberations of the
Council?

K. P. Putnam

8/9/09

2585 (with Dewar)

K. S. Chandraiah

26/9/09

S. Aravamudan

39 To be brought up at a Council meeting, the a
date being fixed after consultation with the Chief
Judge, no motion requested to favour but with
his further opinion on the proposal that Criminal
appeals should be decided by two judges

T. Aravamudan

(16) C 120
16.9.09

GENERAL AND REVENUE SECRETARIAT.

Council Matter.

SUBJECT.

Amendment of the Chief Court Regulation.

CIRCULATED TO COUNCILLORS.

By Order,

H. Chandrasekhara
Secretary to Government.

16th September.....1909

K. P. Puttanna Chetty, Esq.,
First Councillor.

56
11-10-09 H. V. Nanjundayya, Esq., M.A., M.L.,
Second Councillor.

Seen by Second Councillor.

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the present arrangement under which
every petty criminal appeal comes
before a Bench which is a waste of
valuable time.

4. The opinion of the Chief Justice on the point has been received. This has now been considered by the Council after writing to the Chief Justice.

~~att~~ Submitted for orders.

~~not~~ Submitted for orders

9.10.09 5/10

S. Hymenoptera

9/10/09 Sd

Sci 9) 1.3 Recirculated to the Committee
for perusal. The

W. S. Chenovia Rektora P. 12

9/16/09

S. K. Ramani

by Seen.

Dr. V. R. Raghunatha

11/10/9

Hypophthalmichthys

13/10/08

S. H. Williams

45 Sub to Henry, personal. As the
Chief Prof seems to have decided view
in the matter & has already expressed
their full & necessary under the
circumstances to ~~take~~ him to be present
in a Board meeting? Perhaps the subject

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Maybe further discussed at a meeting
& then if necessary the chief judge's
presence arranged for later on.

2971
4/1/09

K. S. Chandra Sekhara Deyar

416 Yes; to be brought up at a Council
meeting.

T. Ananda Keshava

In case in agenda.

K. S. Chandra Sekhara Deyar

47. Discussed at 4/1/09 meeting, & adjourned

K. S. Chandra Sekhara Deyar

48 A. D.O. since received from
the chief judge under date
the 30 Nov. 1909 is attached
below

and 11-12-1

7D

New Mysore 11/12/1

P. L. C.

3-11-09

with in a separate file (1)

As the Kopal.ingar
is not available for the
year the simplest plan will be
to let the Kantele Enoda and
the Kantele. Iyer change place
The work of the former was
discontinued and the latter
is now working at Kolar
therefore

(2) Is there any objection to getting

the Dangle alone for fields
as assistant to his father
for the Dangle alone

this will be some other
year. the Congress time of work

the Chief Court - when
we a good deal of help

(3) - that the other part of our
proposals will be given speed
to at an early date if
they have been times when
they are any more substantial
help to the li

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121

range. I then
reference are sanctioned
Judge shall sit 3 times
week and 4 times in one
of each month
The Secretary
Secretary

If the ~~pro~~ makers agreed to
in the above, no (1) & transfer of Muni
salt with in a separate file.
D No (2) re. forgetting the Bangalore
Sub note as a salt lesson note
is a non-contentious proposal,
and as there is nothing to prevent

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effect being then ^{from the terms of the ch. process} ~~in~~ ^{to be} ~~in~~ ^{urgent} ~~in~~ ^{regu}
 such revision seems to be ^{an} ~~in~~ ^{draft} ~~in~~ ^{note} ~~in~~ ^{is} ~~in~~ ^{put up} ~~in~~ ^{to} ~~in~~ ^{and}
 'moral'

No. (3) 176
 Lathrop ad. 176
 Consideration 176

No (4) require no ~~action~~ action.
It is merely an intimation as to proposed
distribution of work in the Chief Court.
As an intermediate report is due
to the Chief Just, I propose, if
approved, to send ~~the~~ one as in the
draft I've put up.

3182 Desm. 22.11.07

И. В. Казимирский

also Notfe appointments, Sub. Judge, an
 extra Session Judge approved by Secy
 be issued at once.

The question of amending the Corp. Court Regs
was brought up at the next meeting of Council
the 15th ult.

10-12-8

Issue no.

GPB-55,000-27-4.09

11/12/09

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The notification apptg the Sub Judge of Bangalore
as North Sessions judge has been issued, and
the file is sent back to the Council Section for
further action.

CR
11-12-09 (vide Court's 139-09-2
8-11/12/09)

24106
26/1/10

(25)

22

Extract from the Proceedings of the 2nd & 3rd Meeting
of the Council of His Highness the Maharaja
held at Mysore on the 22nd & 23rd December 1909

58

iv. Subject.-(Clause II of Schedule)

Amendment of the Chief Court Regulation.

OPINION of the Council

A measure to amend the Chief Court Regulation may introduced so as to empower a single Judge of the Chief Court to hear appeals in civil cases. This can be justified on principle and is calculated to afford material

26

23

relief to the Chief Court.

The Council does not consider it expedient to make a similar provision in regard to criminal appeals. These appeals are comparatively few and take comparatively much less time. Though a measure of the kind would mean placing 1st class magistrate's cases in the Bangalore Division on a level with those of the Ashtagram and Nagar Divisions appeals against which latter are now heard by single Sessions Judges it would at the same time mean that whereas appeals from decisions of the Sessions Judges at Mysore and Channarayana are now heard and decided by a bench of two Judges of the Chief Court, they would, if the proposal were adopted be heard and decided by a single Judge of the Chief Court. This change would be extremely unpopular and difficult to justify.

From the necessary legislation that be commenced

Sd/- T. Ananda Row.

Deputy of Mysore.

Routine Notes.

[To be used only for notes, requisitions, etc., not intended for permanent records]

environment of the
Police Court Regulation.

The Council Resolution

The Council is put

up the file has to be

subd to 2nd in 1 vide the

penal note ... d Proh)

Subd to 2nd in 1

1908

Subd to Dewan
through 2nd in 1

18/1/10

27

Flag A

& detached as per Sec

oral rivers

19

24/1/10

28 ✓
10 ✓
Bangalore
10-1-10

My dear

I have had a talk with the chief judge about the scope of the recommendation made by the chief Justice: "empowering a single judge to hear certain classes of appeals. He is surprised at the construction placed on the recommendation, and authorises me to discontinue

assure you that nothing was
was meant than to bring
the practice into the Bangalore
District exactly on a line with
that which obtains in the
other divisions. That is to
say, only such appeals
Civil or criminal, as a District
or Sessions Judge could
hear in the Mysore or Shimoga
Division could be heard
& disposed of by a District
Judge of the Chief Court at
Mysore the Bangalore District

It was ⁽²⁹⁾ ~~not~~ meant that
a single judge should hear
appeals, civil or criminal,
from the decisions of a
District or Sessions Judge
of any other division.

I may add that I have
looked up the reference
from the Chief Court on
the subject, & find that
its meaning is quite clear.
Not being the case, ~~there~~
there is to be no occasion
for any sentimental
objections being raised.

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Proposal to provide that
appeals in the Chief Court
may be heard and
disposed of by a single
Judge

I was under the impression that I had already noted my views on the question in detail and so did not consider it necessary to give my reasons, as the conclusion adopted at the meeting of Council, was in accordance with my views. But I have not been able to find any such note, and therefore I beg to set down my views as follows:

(a) Under S. 15 of the Chief Court Regulation, all appeals civil and criminal, which go before the Chief Court, should be heard by a bench of not less than two Judges. Under S. 16 B, revision cases may be disposed of by a single Judge and under rules of practice framed by the Court under S. 19, certain other matters of a miscellaneous nature may likewise be

✓ 2 (32)

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disposed of by a single judge. Evidently the view of the Legislature at the time of passing the Regulation was that appeals were too important to be left for determination by a single judge. In fact this was the reason which actuated government to appoint three judges in place of the single judge in 1884. That this consideration has all along been taken as an important one not to be discarded lightly, appears obvious from the fact that no ^{serious attempt} ~~proposed~~ has been made in any quarter till now to modify it.

3) This provision no doubt places the three districts of the Nandidurg division in a different and somewhat anomalous position in the matter of appeals. It gives them the advantage of getting their appeals (which in other places, would be disposed of by a single judge) decided by a Bench of two judges of a Superior Court; and at the same time ~~deprives~~ ^{denies} them (what they elsewhere

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would have) a second appeal
This however is no disadvantage
and is rather an advantage to
the litigant public, as they would
get the same result (a determina-
tion by the highest tribunal) for
a single instead of a double Court
fee. It may be an anomaly but
it is one that does nobody else
an injustice, and unless there
are other strong reasons, there
is no necessity at all, to bring
the Courts of the Bangalore Division
"into line with the Courts of the other
divisions".

(4) The main reason given by the
Chief Court for the present proposal
is that "at present a great deal of ~~the~~
valuable time of ~~the~~ is wasted owing to
a Bench of two judges having to sit
for the disposal of petty appeals from
the decisions of Munsifs and Magis-
trates". If this means that the cases
coming up are too trivial to engage
the time of such a high tribunal, the
answer is that the proper test
to be applied is not what is

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on the assumed dignity of a tri-
bunal but in the degree of just-
satisfaction and confidence that can
be conveniently afforded to those
who resort to Courts, and that such
questions should be viewed chiefly
from the point of view of public good
and of what people concerned have
long been accustomed to. I may
also observe that many cases that
come up before government (both
in the administrative departments &
before the Council Committee) are
quite as trivial in value of the
subject matter, &c., as any that
the Chief Court is called upon
to decide.

(5) The Chief Court, as was con-
sidered, would not have suffi-
cient work from appeals alone
coming before it in the normal course
as from the Mysore & Shimoga Dis-
trictions. The Regulation was there-
fore amended in 1890, by the inser-
tion of provisions to enable it to
do the appellate work that in other

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divisions is done by District and
less. Judges. After that, the ori-
ginal jurisdiction was sometimes
given and sometimes taken a-
way ^{mainly, I believe,} according to representations
made from time to time by the Chief
Court. The last alteration made
in 1906 was that the Chief Court
should be invested with original
Criminal jurisdiction, and that the
District Court should be abolished.

(in the year
ordering
the retrench-
ment d. 27.11.6.)

It is ~~to be~~ noted that the two Chief
Judges who 'had considerable expe-
rience of the working of the judi-
ciary in British India' were strong-
ly in favour of the measure. It is
doubted whether they ~~should~~ would
have supported the measure quite
as unequivocally, if they had local
experience of equal value. What-
ever that may be, we again find
another Chief Judge with a simi-
lar wide experience of British In-
dian Courts and with ~~the~~ ~~the~~ ~~the~~
certainly not too much
~~respect for~~ respect for, local
conditions and precedents, pro-
posing a drastic change in law

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6 (36) 17
other direction. In my hum-
ble opinion, it is necessary
that government should out of
respect for a principle that has
long been consistently followed
in Mysore, ~~shall~~ scrutinise
the proposal with minute care.

(b) The proposal has to be ex-
amined separately for civil and
criminal cases. As I have in-
dicated already, it is no disad-
vantage but rather the reverse
for parties to have only one appeal
direct to the Chief Court. Is it real-
ly necessary to give up the prin-
ciple hitherto followed - that the
decisions of our highest Court
should have the guarantee of con-
sideration by two or more judges
so as to command the respect and
confidence of the Public? It seems
to me better that other means should
be found to relieve congestion
in the Chief Court. For example,
we may again have (either tem-
porarily to relieve present con-
gestion or permanently if neces-

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37 30

sary) a District Judge's Court.
In fact as a judge of the
Chief Court, I suggested in 1906
that it would be better to main-
tain a District Court rather than
a subordinate Judge's Court here
or if it is considered that
consistency requires that we
should ~~not~~ not disturb the
present distribution — a reason
that does not appeal to me much.
We may try the alternative of
appointing an additional subordi-
nate Judge ^{perhaps by} or investing a duly quali-
fied ~~Subordinate~~ City Magistrate with
such powers. It may be noted
there is some doubt whether the Chief
Court can legally transfer appeals to
a sub. Judge (ss 14 & 16 Ch Ct Regn) as
S. 14 of the Civil Courts Regulation does
not give jurisdiction to hear appeals to
a sub. Judge. But under the last
clause of the said section, Govt may
direct appeals to be directly to a
subordinate Judge. Perhaps some am-
endment may be necessary to
authorise transfer of appeals.

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No.

8 (38)

(17) If, however, it is considered expedient to accept the proposal of the Chief Court, I have no serious objection in the case of ^{Civil} ~~Criminal~~ appeals. As the Civil Procedure Code stands at present, there will be no second appeal, and the amendment ~~is~~ proposed by the Chief Court is not in itself sufficient to give such a right of second appeal. We shall have to insert a suitable amendment in the Civil Procedure Code also now under consideration. If we do so, I do not see that any party will be placed at any disadvantage by this departure; and while we shall have appeals decided by single judges, we shall have a larger number of second appeals than at present before two judges together. As however not more than 20 ~~or~~ Per cent of the appeals decided are likely

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to reappear as second appeals,
there will be a substantial re-
duction of work.

(4) Criminal appeals how-
ever stand on a different foot-
ing altogether. In the first place,
the consequences of a wrong decision to
the party concerned are much more
serious generally in a criminal
than in a civil case. There is no
second appeal allowed in any Cri-
minal Case according to the Crimi-
nal Procedure Code, and it is out of
the question to introduce this right
as a novelty by amending the Code,
in respect of the Chief Court alone.
Neither the Chief Court Regulation
nor the Criminal Procedure
Code gives any power to the
other judges of the Chief Court
to revise an order passed
by a single judge, as the pro-
visions about revision (S. 435 &c)
apply only to inferior Courts.
If ^{an inferior} the appellate Court decides
an appeal, the party aggrieved.

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may apply for revision by the
Chief Court, and the denial of
a second appeal is of no con-
sequence, as the Chief Court
(~~of~~ Unlike ^{what is allowed} in civil cases) has the
power to consider both question
of evidence and of law. It
has been decided by a Full Bench
of the Chief Court that it has
no power to review its decision
(XI Mys. Ch Ct Repts 223 - over-
ruling a case reported in VI Mys.
Ch Ct Repts 117). The draft sub-
mitted by the Chief Court does
not suggest any amendment of
the law in this respect. The
result will be that the judg-
ment of a single Judge would
be final in criminal appeals
from the cases decided by first
class Magistrates not even liable
to correction by review. It is
on the ground that the judg-
ment of the Chief Court in criminal cases
is ^{thus} absolutely final, that such
~~as~~ appeals have been ~~advised~~.

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No.

to be placed before two Judges. M

It is on ~~that~~ ^{the same} ground that I
am altogether ~~well~~ strongly
opposed to the introduction of
this innovation

(9) It is ^{the} common experience of
judges who have worked in as-
sociation with colleagues, that
they have had often to change
their mind on hearing the rea-
sons suggested by their colleagues
and that they have similarly oft-
succeeded in converting their col-
leagues. It is therefore a real
advantage to be judged by more
than a single person; and parties
should not be deprived of the
advantages they have been enjoy-
ing in this respect without com-
pensating advantages in other
ways. //

(10) Even if by a change of law
we make the judgments of single
judges in appeal liable to revi-
sion, it would be no ade-
quate safeguard; for it is ^{common} ~~well~~
considered ~~known~~ that the exercise of the

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Power of revision cannot be demanded as of right in the same degree as a regular appeal; and there is a vast difference between judge and judge in the faculty he allows to parties to revise objections in revision. S. 440 of the Br Br Code expressly says that no party has any right to be heard either personally or by pleader in cases of revision. It is very doubtful whether Judges of the Chief Court would be ready to exercise their power (if granted by legislation) as effectively in (discretionary) revision as they would in regular appeals, which they are by law bound to entertain and decide on merits.

(III) My proposal therefore is:
(1) that we ask the Chief Court whether an alternative remedy

(43)

13

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for the present Commission can-
not be found in the tem-
porary appointment of a Dist.
Jesse Judge, or of a sub additional
Sub. Judge; or (2) that we car-
ry out their proposal by suit-
able legislation only in the case
of Civil Appeals, and decline
to empower a single Judge
to hear Criminal Appeals.

9/1/10

H. Manjundaya

Dewan

4106
26/1/10

Recd
6/1

(US)

246

N O T E.

I beg to submit the following for the
consideration of Government:-

6/1 The congestion of work in the Chief
Court consequent upon the abolition of the Mandi-
burg District and Sessions Court seems naturally
to be causing grave anxiety as well to the Judges
of that Court and the litigant public as to the
Government of His Highness the Maharaja.

13/1 Several palliatives have been suggest-
ed, and have either been given effect to or are
under investigation. None of them however ap-
pears to me to be quite satisfactory. Among the
former are the investment of the Sub Judge of
Bangalore with (1) unlimited Civil Original Ju-
risdiction and (2) the powers of an Assistant
Sessions Judge. These, particularly the latter,
are powers which cannot always be safely con-
ferred upon the occupant of the office irres-
pective of his standing, capacity and experience.
I have already heard it said that, be the Sub
Judge's qualifications what they may, the trial
by him of cases committed to the Sessions by his
seniors is an ~~anomaly~~ anomaly which having regard

(46) 2 39

to the relative ranks of the officers concerned the Chief Court and the Government should have endeavoured to avoid. The Sessions Court practically sits in appeal over the Committing Magistrate, the latter forming an opinion which the former either accepts or rejects with remarks commendatory or condemnatory as the case may be. The Sessions Judge ought to be higher in rank than, or at least equal in rank to, the Committing Magistrate. The result of the transfer of the bulk of the Sessions work to the Sub Judge would, I am almost certain, be that Senior Assistant Commissioners and District Magistrates would in future not have anything to do with Preliminary Inquiries unless unavoidable, that is unless they could delegate this important work to inferior Magistrates subordinate to them. This is not as it should be.

(47) And now coming to the changes under consideration, I understand that the most important of them is the investment of a single Judge of the Chief Court with power to hear certain appeals, subject to a further or second appeal to the same Court in Civil cases and to no

(67)
31

WV

opportunities of correction at all in Criminal cases. This in my humble opinion is a procedure as inexpedient as it is unsatisfactory. It will please no body while the relief accruing from it would be inappreciable. The single Judge in question will for all intents and purposes be a District and Sessions Judge. That being so, there ought to be no difference between his decisions and those of any other District and Sessions Judge whether in Civil cases or in Criminal. A revision ought to be allowed in Criminal appeals dealt with by him in the same way as Second appeals in Civil appeals disposed of by him. Even should this be provided for, there would be the further anomaly of one single Judge sitting in revision over the pronouncements of another single Judge. To avoid this anomaly a Bench of two Judges will have to sit in such cases, which means an additional burden on the Chief Court instead of the substantial relief which it very much requires.

The question of cost to parties in the shape of Court fees &c., is another important factor which ought not to be ignored.

(48)

These changes, undesirable as they are, cannot be effected without a material amendment

of the Chief Court Regulation, *and perhaps also of Procedure Code.*

Rather than perpetuate existing and contemplate further anomalies, I would ~~xxx~~ look the matter full in the face and see whether it is not possible once for all to devise some other remedy both efficacious and unexceptionable. Such a remedy has suggested itself to me, and I take the liberty of bringing it to the notice of Government firstly because it will necessitate no appreciable additional expenditure, secondly because it can be given immediate effect to without having to invoke legislative sanction, thirdly because it will satisfy the public and lastly because it will once for all remove the evil complained of and leave the Chief Court free to exercise its legitimate functions.

My proposal involves..(1) The Resuscitation of the Nandidurg District and Sessions Court. There is some ~~history~~ about this Court which within the past few years has as often been abolished as it has been created or revived. It is an indispensable institution and ought to

do all the work that the corresponding Courts at Mysore and Shimoga are doing. It apparently was doing less and was consequently doomed. It ought to relieve the Chief Court (i) of all appeals from Munsiffs, (ii) of all appeals up to a certain limit from the Sub Judge, (iii) of all appeals from First class Magistrates, (iv) of all first-examination of the Calendars of Magistrates in the Division and (v) of all Sessions trials. This would be a great relief to an over-burdened Chief Court which is now called upon to do an enormous quantity of inferior work not properly appertaining to the highest Court in the land which has its own superior work sufficiently heavy to engross its whole undivided attention. I am afraid the recent abolition of the District Court was in a large measure due to the Chief Court having made it a costly sinecure by taking upon itself the disposal of a considerable portion of the appellate work of that Court to the prejudice of its own legitimate heavy work.

(2) The investment of the Sub Judge of ~~the~~ Bangalore with the powers of a First class

Magistrate with jurisdiction as such over the City of Bangalore. This officer ought to be relieved (a) of Assistant Sessions Judge's work, and (b) of Civil original cases beyond a certain limit. Further, no Civil appeals need of course be transferred to him as in former days. Relief in these directions by the District and Sessions Judge, ought to enable him, without any undue strain, to do, in addition to what remains of his Civil work, such Criminal original work of the City Magistrate as would remain after the transfer of the simpler third and second class cases to the newly constituted Bench of Magistrates. I submit that it is a mistake to give this comparatively junior officer (whoever he may happen to be) larger powers than he need be invested with. The revived District and Sessions Court will relieve him of the same. The residue with a small quantity of magisterial work will surely not be too much for him. To meet a possible doubt as to the advisability of this combination of powers, I must say that there is not the same objection to a Civil Judge being in addition to his Civil duties given some

magisterial work as to a Magistrate being besides his magisterial duties invested with power to deal with Civil cases. There is nothing new in this. Some of our Munsiffs are already Magistrates as well. Whether the new arrangement works well or not is a question which does not really affect the present proposal which is based upon conditions entirely different. I may add that we have in the past had a number of Sub-Judge-Magistrates among whom may be named Sir K. Sheshadri Iyer, Sir P.N. Krishna Murti, Mr. V.P.

Mr. T. Narahari Rao, Madhava Rao, Mr. A. Rangaswamiengar, Mr. B. Tirumalachar and my humble self. Lastly if a Sub Judge can be an Assistant Sessions Judge, why why could he not be a First class Magistrate? The only question is whether he has time for this? I am of opinion that in the present case there is no difficulty in answering the question in affirmative.

And (3) Abolition of the Bangalore City Magistrate's Court.

If this has not been a costly luxury in the past, it will certainly be so in future by reason of the constitution of a Bench Magistrate's

Court. The circumstances under which its creation was deemed desirable a few decades back have also since ceased to exist. There is further in the Sub Judge an officer who, when relieved of some of his present ~~work~~ as above, will have ample time at his disposal, and is fully competent, to deal with what little remains of the higher magisterial work of the Bangalore City. The abolition of this - at present superfluous - Court at the earliest opportunity, will, I am convinced, cause no sort of inconvenience to the public. On the other hand, it will pave the way (1) for the re-establishment of a District Court, (2) for the ~~relief of the~~ relief of the Chief Court of much of the burden recently thrown upon it and which it has ^{good} reason to complain of and (3) for making arrangements for the re-distribution of work in a manner eminently satisfactory. Not only is the Bangalore City much smaller than the cities of Madras, Bombay and Calcutta, but the conditions prevailing in it are also wholly different from those obtaining in the latter. The Bangalore Cantonment Magistracy with its multifarious functions

has also nothing in common with the Bangalore City Magistracy which, whatever the reason for its creation some years back, is no longer a real necessity. If it goes, the saving thereby effected with a small reduction in the establishment of the Chief Court, will, I think, quite meet the cost of the new District Judge and his establishment.

(b)
that portion
which was added
to it when the District
Court was also
- linked -

In conclusion, I may observe that in Bangalore one of the following Courts was a superfluity. viz. -

- (1) a District and Sessions Court,
- (2) a Sub-Judge's Court,
- and (3) a City Magistrate's Court.

Number (1) was therefore recently abolished. I submit that experience has since shewn that the abolition of number (3) would have been more beneficial than that of number (1). It is this that I now presume to suggest. The Chief Court wants relief and the public are dissatisfied. Some readjustment is urgently called for. The true remedy, in my humble opinion, lies more in the simple proposals I have formulated above

(54)

K₁

than in the make-ships more or less unsatisfactory now under consideration.

Sreenivasagar

21/1/1911

(5-5)

46

679/1 file

Bangalore

9th February 1910

62

my dear Sir,

In regard to the Chief Court's proposal to amend Sub Section (1) of Section 15^u of the Chief Court Regulation so as to allow of a single Judge hearing appeals under Section 14 of the Regulation, you will find from the Second Councillor's note dated 20th January on the file below, and from a note from Mr. C. Srinivasiengar dated 21st ^{idem}, that there is considerable opposition to the proposed amendment, in regard, at all events, to Criminal appeals.

2. I know not whether you would be disposed to exclude Criminal appeals from the scope of the amendment restricting it to Civil appeals.

3. And I would like to be favoured with your opinion on an alternative proposal suggested in the said notes of Second Councillor and Mr. Srinivasiengar, by which the District Civil and Sessions Court will be revived, the Sub-Judge will be constituted into a Sub-Judge Magistrate, and the City Magistrate will be abolished.

4. We had an informal discussion with ^{non} ~~un~~-official members

(56) 2

of the Legislative Council on the proposed amendment of the Chief Court Regulation. It found considerable reluctance to allow a single Judge to dispose of Criminal appeals and a strong inclination in favour of the alternative just mentioned in the last preceding paragraph of this letter.

Yours Sincerely
S. J. Ananda Rao

S. Ismay Esqr., C.S.I.,
Chief Judge

Dr. M. R. 997
(57)

11. - 2 - 10. .

50

My dear Dewan Sahab,

63

I do not desire in any way to criticise the note of the 2nd Councillor but in justice to myself two remarks are called for.

1) So far from this being the first serious attempt to modify existing arrangements my proposals are practically a reproduction of the proposals which were urged upon Government by the Chief Court as far back as 1899!

2) I thought I made it clear that there would be second appeals in Civil cases and revision in Criminal cases. If this is recognized then all the arguments now advanced against my proposals drop to the ground at once.

The case simply stands thus: Owing to the amount of arrears which were allowed to accumulate before I took charge any Civil appeal filed now cannot be heard for two years at least, a delay which practically amounts to a denial of justice. If a D and S Court can be reestablished I admit that this will solve the difficulty much more efficaciously than if my proposals were sanctioned. In many ways the present arrangement works badly. The Chief Court cannot exercise a proper control over the subordinate Courts in the Bangalore Division and some grave irregularities which have come to light recently would not have been possible under a proper system of control.

We might try Mr. C. Srinivasengar's scheme and if it succeeds so much the better. The

(5-8)

D and S Judge should be able to cope with the work which would come to him for some time at least as I would retain all pending work on the file of the Chief Court. About the Sub Judge and Magistrate, I am more doubtful. I am no believer in sending police cases to Hony. Magistrates except very simple cases. Anyhow the Sub Judge should be relieved of the duty of holding inquests which interrupts his work at present. There can be no reason why the City Police Officers should not hold inquests as in British India. I understand that in the Civil and Military Station the old orders of (I think) 1876 were cancelled long ago. If you will give effect to Mr. Trinivasiengar's proposals I will do my best to make the scheme a success and if I can be of any use in working out the details I am always at your service.

Yours sincerely,

Sd/- S. Ismay.

"Copy"

W.S.
Please have
a type written
copy made
of the letter
of the 25th
of May 20
11-2-10

59

by hand Dr. J. Scher

I do not desire in
any way to criticize the vote
of the 2nd Commission but in justice to my-
self two remarks are called for
1) So far from the bringing the first
series attempt to modify existing law
unsuccessfully my proposals are practically
only a reproduction of the proposals
which were laid upon Gov. by the
Chief Council as far back as 1899.
2) I thought I made it clear that
there would be great appeals in civil
cases and revision in Criminal Cases.
If this is recognized then, all the
more I demand and my
urge

(60)

proposed drop to the ground at
once.

The case simply stands thus:
owing to the amount of arrears
which has accrued to accumulate
before I took charge any civil ap-
peal filed was cannot be heard
for two years at least, a delay
which practically amounts to a
denial of justice - If a D.S.
Court can be established I
admit that this will solve the
difficulty much more efficiently
than if my proposals are sanctioned.
In many ways the present Court is
not works badly. The Commission

(62)

begin later except very few
cases. Every law the Sub Judge
should be believed of the duty of
holding inquiries which interferes
in work at present. There can be
no man the City Police Officers
should not hold inquiries as in
District India - I understand that
in the Civil & Military Station the
old order of (I think) 1876 was
cancelled long ago. If you will
give effect to the Government
proposals I will do -
make the scheme & so
if I can be of any use
and the details I can
service -

Routine Notes.

(64)

[To be used only for notes, requisitions, etc., not intended for permanent record.]

file a amendment for
Chief P. + Regulation
re-establishment of No. 100
Bangalore

Seen
Hry
CH

19/7/60

N. B.—Should routine notes be written on small
slips, the notes must be copied, or slips
pasted on this form.

7840
14.9.10

Extract from the Proceedings of the 254th Meeting of the ^{SV}

Council of His Highness the Maharaja, held at

Bangalore on the 5th 6th 7th 1910 September

66

65

6. Subject. - (Clause of Schedule)

Amendment of the Chief Court Regulation and
proposal to re-establish a District Court at
Bangalore.

OPINION OF THE COUNCIL.

The Chief Court Regulation may be amended so as
to empower a single Judge of the Chief Court to hear
appeals in Civil cases. This can be justified on
principle and is calculated to afford material relief
to the Chief Court.

The Council does not consider it expedient to
make a similar provision in regard to Criminal appeals.
These appeals are comparatively few and take compara-
tively little time. The change would be extremely
unpopular and difficult to justify.

The necessary legislation may be undertaken.

The

THE COUNCIL IS NOT IN FAVOUR OF RE-ESTABLISHING
A DISTRICT COURT AT BANGALORE.

Sd/- J. Ananda Row.
Dewan of Mysore.

(66)

"Extract"

S. Balasubramanyam
Offg. Secretary to Govt.

(67)

54

Submitted to His Highness.

67-

In order to facilitate the early disposal

"Paper under
disposal" no. 1.

of suits in the Chief Court, the Registrar proposed -

(i) the amendment of Section 15 of the Mysore Chief Court Regulation 1 of 1884 to empower a single Judge of the Chief Court to hear and dispose of appeals (preferred in the exercise of its original jurisdiction) instead of by a bench of two Judges;

ii) the amendment of Section 504 of the Civil Procedure Code on the lines of the India Code under which the decision of the Court of first appeal is final on all questions of fact. In Mysore, a second appeal is allowed on questions of fact when the decision of the first appellate Court differs from the finding of the Court of First Instance;

iii) the amendment of Section 586 of the Civil Procedure Code to restrict second appeals in Small Cause suits by substituting Rs.100 for Rs.50;

and

(68)

2

75

and (iv) the appointment of the Sub-Judge of Bangalore as an Assistant Sessions Judge.

S

2. As desired by the Chief Court, the Sub-Judge of Bangalore was appointed as an Assistant Sessions Judge. The proposed amendments of sections 584 and 586 of the Civil Procedure Code were ordered to be taken up in connection with the general revision of the Code then under consideration and since placed before the Legislative Council.

3. The question of the proposed amendment of Chief Court Regulation was informally discussed with non-official and some other members of the Legislative Council. Opinion was adverse to a single Judge being made to hear appeals in Criminal cases; and Rajamantra Pravina C. Srinivasiengar drew the attention of Government to the congestion of work in the Chief Court consequent on the abolition of the District and Sessions Court at Bangalore. His suggestions were -

(a) the re-constitution of the Sessions Court at Bangalore;

(b) the abolition of the Bangalore City Magistrate's Court;

and (c) the investment of the Sub-Judge of Bangalore with the powers of a First class Magistrate.

(69) 3 56

with jurisdiction as such over the City of Bangalore. It was also suggested that this officer ought to be relieved of Assistant Sessions Judge's work and of Civil original cases beyond a certain limit.

4. On a perusal of Mr. Srinivasiengar's Memo and the Secretariat notes on the proposals submitted by the Chief Court, Mr. Justice Ismay remarks, in his D.O. letter of ^{11th} ~~2nd~~ February 1910, that "if a District and Sessions Court can be re-established, I admit that this will solve the difficulty much more efficaciously than if my proposals were sanctioned".

5. The Chief Court's recommendation to amend Section 15 of the Chief Court Regulation was considered in Council. The Council is of opinion that on financial grounds, it is not expedient to re-establish the District Court at Bangalore which was only recently abolished; and that it is preferable that a single Judge of the Chief Court should be empowered to hear appeals in Civil suits. A similar provision in regard to criminal appeals would be inexpedient as such a change would be extremely unpopular and difficult to justify. If approved by His Highness, the measure will be placed before the Legislative Council.

Ly

T. Manikam 20/2/10

59



24/9/10

 T. Anandab Rao
 in person ch.

Bring up in person
(at once) - The ch.
ch. drafts will have
the amended)

27/9/05. ~~SA~~ Yes 4-4's
very much

நாழந்தாய்யா

27/9/10

Serial
No.

68 The draft ~~letter~~ of an amendment forwarded by the Chief Court requires some change in view of the fact that Criminal Appeals are not to be included within the purview of the Bill. With this object I have altered the draft as shown in the typed paper flagged.

70 A consequential amendment of the Civil Procedure Code is also necessary. As it is intended that parties should have a right of second appeal (where such appeals are otherwise allowable by law) to a Bench of two judges in respect ^{appeals} ~~cases~~ disposed of by a single judge, Sec 584 of the C.P.C. (1884) which confers the right of second appeal ~~is~~ only in respect of decrees passed by a Subordinate Court "Subordinate to the Chief Court", the words "or by the Ch. Ct. in exercise of its appellate jurisdiction under Sec 14 of the Mysore Ch. Ct. Regn" have to be inserted after the words "Subordinate to the Ch. Ct."

71 A similar change has also been made in the corresponding section of

Serial
No.

the new C. P. C. also ^{for suitable action} This will be
borne in mind at the time of its
passage through Council. But as
the draft Bill may become law
even before the new C. P. C., it has
been thought desirable to amend
Sec 584 of the Existing C. P. C. also.

(2) The usual drafts of the St
of objects & Reasons of D.O. 6-
the Res^y are put up.

(3) If approved, the Bill
will be published in the Gazette
about 10 days after the D.O. 6.
The Res^y has been despatched.

(The measure is one that requires
the sanction of the Govt of India)

28/9/10. S. H. V. Narayana

Recd at 29/9/10

Shwanta 2nd 7

Should not provision be made
for disposal of 2nd appeals when
there is a difference of opinion?

What is the provision in the C. P. C.
bill now before us. (Cf S. 13¹³ of
the Ch Ct Regn)

29/9/10.

H. V. Narayana
29.9.10
H. V. Narayana

Serial
No.

73. (1) As previously instructed, the draft has been changed making distinct provision, on the analogy of Sec 13, for disposal of cases ~~and~~ which a difference of opinion may arise.

to be omitted.
vide 2nd ed's
note below

(2) attention is invited to the penance in cl 1 of the draft. If these words are retained, the provision will have been made for a Full Bench also, in case the Ch. Ct. should consist of more than 3 judges at any future time. Without them, civil appeals under Sec 14 can never be referred to a Full Bench.

11/10/10


S. Hirunuma

9 Helianthus 2nd c/

74. The drafts seem to be all right now.

75. Probably if this change is to be introduced ~~simultaneously~~ with the Code of Civ. Pr or after it,

leg (74) 6 of 1909-10
File No.

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some alteration in the form
adopted may be required.
He may however further ex-
amine the matter at a later
stage. The reference to
a Full Bench need not
be retained, as it is quite
inoperative as it stands in
S. 13 at present.

H. V. Rangaswamy
H. V.

St. Dewan 1/10/10

Red after 5 pm
m/10

8 2 3 2
4 . 10 . 10

Draft altered & approved -
The typing of the Draft is not
in accordance with the recent
instructions in regard to spacing
of the lines, as the draft was
t. Angudakur

The Do letter to the Hon'ble the Resident
has been issued from the Dewan's Office
and the draft placed on file and fi-
resubmitted - N° 1388 of 5/10/10.

1012
7.10.10.

III

C. S. Balarundaramayya
C. S.

S. Hingamary

11/10/10

Serial
No.

D.O. Letter No. C. 106 of 14/10/10 from
 Mr P. B. Hamburton, 1st Asst Resident to
 Mr. Dixon.

States that the over acent sees no
 objection to the bill being laid before
 the Legislative Council.

It was intended to publish the
 bill in the Gazette under Rule 32 of
 the Leg. Council Rules. Perhaps the
 Board Council will take charge of
 the bill. Submitted with a draft
 notice to the Council.

MS
 15/10/10 SV
 20/10 P. B. S.

(1) The 2nd () was re-
 approached to kindly take charge
 of the Bill

(2) Submitted for favour of
 Order of the Dewan as to whether
 the bill may be published in the
 Gazette

26/10/10 Sh. Anandamanga
 1) Yes

Dewan 2) Approved.

T. Ananda Rao
 26/10/10 e. Bas

840/10
 20

NOTE—Contn. sheet.

GPB—55,000—27-4-11
 Vited

§ (1) Issue. The Bill should appear
in the next Gazette

(2) The file will then be subd to 2nd cr

1/4/10 *SA*
S. Thompson

[Handwritten signature]

11/10/74
 2/1/74
 11/10/74
 2/1/74

2/14/60 S. Herzigmann

~~Let me see the copy
as it appears on the
archive 1. Seen~~

Seen
H. H. Mangum

4/11/10
e s Balasundaram

Call for more flowers

S. Korymalya. *SK*

4/11/10 4/11/10

(77)

20. 11. 10
Mysore

.. dear Sir

Sec. Sub. Section

4. proposed to be added to Sec
14 of the Mysore Chief C. ^{or} ^{order} ^{and}
the words 'original decree' ^{and}
apparently a mistake as they
would have the effect of making
the views of a subordinate
judicial officer + one judge of the
C. Court prevail over the
views of 2 judges of the Chief
Court ^{on points of law as well as fact. If} ^{pointed out} this out

(78)

To Mr. Anni Hassan at Hassan
& Mr. Rangayya at Mysore, but
feel that as the Bill is to be
introduced by you, the needful
amendation should be made before
introduction. With my best regards

Yours truly

V. M.

Vijayalakshmi S. S. M. S.

Serial
No.

This Bill was withdrawn
in the app. Council on 21/2/1912
by the ~~first~~ ~~member~~ on
behalf of Govt.

~~OK~~ S. V. S.
2/2/1912

79

Legis. 5-7
Sl.

Letter
No. 753
113

(89)

Chief Court, Mysore,

Ch. A. D.

Bangalore, 12th August 1909.

13

From

V. A. Rajaratna Mudaliar, Esq.

The Registrar, Chief Court of Mysore

To

A. S. Chandrasekhara Aiyar, Esq.

Secretary to Government

General & Revenue Departments

Sir,

I am directed to invite the attention of the Government to this office Letter No. 7445/295 dated the 23rd June 1899. The proposals set out in that letter were considered at the Judicial conference which was held on the 25th October 1902 but were not pressed in view of an alternative proposal to the effect that the higher classes of appeals throughout the State both Civil and Criminal, above a limit to be fixed under statutory authority should lie direct to the Chief Court. At the same time the re-establishment of the District & Sessions Court at Bangalore was stated to be indispensable.

2. Under Notification No. 1859-60 dated the 13th December 1902

(81)

a District & Sessions Court at Bangalore was re-established and continued till the 30th June 1907 when it was abolished.

3. The proposal to make the higher classes of appeals lie direct to the Chief Court was never given effect to and, in view of the abolition of the Bangalore District & Sessions Court they need not be considered.

4. Appended to this letter is a comparative statement showing the institutions and disposals of civil appeals during the past two years. It will be seen that, notwithstanding the fact that the Chief Court was strengthened by the addition of a fourth Judge during five months in 1908-9, the disposals are not much in excess of the institutions and that the pending file is still somewhat congested.

5. In the letter referred to in para 1 the Judges suggested that all appeals of the nature mentioned in section 14, subsection (1) of the Mysore Chief Court Regulation 1884 shall be heard by a single Judge of the Chief Court. If this proposal be given effect to, the courts of the Bangalore Division will be brought into line with the courts of the other Divisions and the work of the Chief Court will be greatly expedited. At present a great deal of valuable time is wasted owing to a Bench of two Judges having to sit for the disposal of petty appeals

3.

(82)

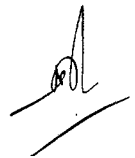
from the decisions of Munsiffs and Magistrates. ^{An} ~~The~~ increase in the number of Second Appeals will result, but this is a matter of no great consequence. In this connection I am to say that the Judges do not wholly endorse the proposal put forward in 1899 to the effect that section 586 of the Code of Civil Procedure should be amended by substituting 'one hundred rupees' for 'fifty rupees'. They are unwilling to recognize that the subordinate courts of ~~the~~ Mysore State are unfit to be entrusted with powers which are vested in similar courts throughout British India, and they would express a hope that, when the new Code of Civil Procedure is enacted, sections 584 & 586 will be brought more into line with the law as in force in British India.

I am further to suggest for the consideration of Government that the Subordinate Judge of Bangalore may with advantage be appointed ~~an~~ Assistant Sessions Judge for the trial of such cases as may be made over to him. At present the prompt disposal of work in the Chief Court is greatly retarded owing to one of the Judges having to sit as a Sessions Judge for several days at the commencement of each month. There is no reason why the Subordinate Judge of Bangalore should not be invested with powers which have already been conferred upon the Subordinate Judges of Mysore and Shimoga.

86

For subsection (1) of section 15 of the Mysore Chief Court Regulation 1884 as amended by Regulation II of 1890 the following shall be substituted, viz., :-

" All appeals, Civil and Criminal, referred to in section 14 shall be heard and disposed of by a Judge of the Chief Court sitting singly. Second appeals against such decisions shall in cases in which second appeals are allowed by Law lie to a Bench consisting of two other Judges of the said Court. All other appeals (save and except appeals referred to in section 13) which lie to the Chief Court under any law for the time being in force as well as all cases referred to the Chief Court for confirmation of a sentence of death shall be heard by a Bench consisting of not less than two Judges of the said Court. "



Comparative Statement showing the number of appeals instituted and disposed of during the years 1907-08 and 1908-09 as also those pending at the close of each of those year

Kind of appeal	Instituted		Disposed of		Pending at ^{the} end of		Remarks.
	1907-08	1908-09	1907-08	1908-09	1907-08	1908-09	
Regular appeals.	354	307	196	363	523	470	(52)
Second appeals.	181	177	144	184	235	225	
Mis: appeals	91	88	79	88	50	50	
Mis second appeals	20	22	21	19	12	15	
Total appeals	646	594	440	654	820	760	

5
 Dy. Registrar
 Registrar

From

The Registrar of the
Chief Court of Mysore.

To

The Secretary to the Government
of Mysore, Genl. & Rev. Depts.

Dated

12th August 1909

Despatched

13th

Received

General No.

No.

Enclosure No.

Suggests certain
proposals regarding
the disposal of
appeals & by a
single Judge of
the Chief Court &
bestowal of powers
of an Assistant
Sessies Judge on
the Subordinate Judge
& District Judge

30/9/07

ab

Diary No. of letter replied to 134

8

General and Revenue Secretariat
(Legislation)
the 190

Letter No 1047 dated 2nd
Sept-07.

10

*The Chief Justice of the Chief
Court of Mysore.
Bangalore*

Date of issue 2-10-07

Ri

Signed by M. S. Idiramma

*Addressing to you letter
No. 75743 dated the 12th August
last proposing an amendment
of the Chief Court Regulations
as to empower a single judge of
the Chief Court to dispose of
civil and criminal cases referred to
in Sec 14 of the said Regulations
so as to bring the Courts of the
Bangalore Division into line with
the Courts in the other 2 Divisions.
I am directed to request the
favor of your furnishing
with the opinion of the
over.*

SUBJECT.

*I am directed to state that
it seems to me that Criminal
cases should continue to be
heard by a Bench consisting
of 2 other judges of the Chief
Court. The opinion of the Chief
Judge may be obtained and
forwarded to both Divisions in the
which*

*Agree
J/S*

Index

Chief Constable as to whether it is not desirable that
Criminal appeals should not
continue to be heard by a
single Court of 2 ~~other~~ judges
An early reply is requested.

I have to
Sd
In see,

88

List of enclosures

Copied by

Examined by



Letter NO D.O. 1388/En 2

Sept 6-07-03

Camp Mysore

dated 5 October 1907
to the Hon'ble The President in Mysore
My Dear Sir

(89)

I enclose herewith the draft of a Regulation to further amend the Mysore Chief Court Regulation

2 Under section 14 of that Regulation, appeals from the decisions of Magistrates and subordinate judges in the Bangalore Division (comprising the Districts of Bangalore, Kolar and Tumkur) lie direct to the Chief Court after the abolition of the District and Sessions Court of Bangalore in 1907. These appeals have, under section 15 of the Chief Court Regulation, to be heard by a Bench of two judges. It is reported

presented -
The other Divisions of the State
exactly similar

by the Chief Court that this arrangement involves a needless loss of valuable time of the judges, as cases which are disposed of by a single District Judge in the other divisions of the State, have to be heard by a Bench of two judges in the Chief Court. With a view to bring the courts of the Bangalore Division into a line with the courts of the other two divisions and also to facilitate the speedy disposal of work in the Chief Court, which is said to be some

in a congested state at present, it is now proposed, on the recommendation of the Chief Court, to empower a single judge of that Court to hear and dispose of Civil appeals filed under section 14 of the Chief Court Regulation.

2. This change necessarily involves the grant of a right of second appeal to a Bench of two judges, just as in respect of appeals disposed of in the other two divisions.

these objects in view, the accompanying draft

against the decision of the Single Judge

W. H.

(97)
(12)

Bill has been prepared. Clause ³ of the Bill refers

a consequential amendment
of the Civil Procedure Code.

5 4. As it is desirable that the Chief
Court should be given early relief, it is in-
tended to publish the Bill ^{in the Gazette} under Rule 32 of the
Rules for the conduct of business of the Mysor
Legislative Council, preparatory to its intro-
duction.

Yours &c.,

(Jawa)

St

56/100
To,

The Honable

Colt Daly C.S.J., C.E.

Resident in Mysore

91

A bill further to amend the Mysore Chief Court Regulation , 1884.

---0---

Preamble.

Whereas it is expedient to further amend ~~the Mysore~~ the Mysore Chief Court Regulation ,1884; His Highness the Maharaja is pleased to enact as follows:-

Addition of a new sub section to Sec. 14 of the Mysore Chief Court Regulation, as amended by Regulation II of 1890.

1. The following shall be added as sub section(4) to section 14 of the Mysore Chief Court Regulation, 1884, as amended by Regulation II of 1890 namely

" (4) All Civil appeals referred to in this Section shall be heard and disposed of by a judge of the Chief Court sitting ~~by~~ singly . Second appeals against such decisions shall, in cases in which second appeals are allowed by law, lie to a Bench consisting of two other judges of the Chief Court. ^(or by the full Bench of the said Court - as the Govt may determine by order) Where there arises a difference of opinion between the two judges comprising a Bench hearing such a second appeal, the decision shall, notwithstanding anything contained in Section 15 of this Regulation or section 575 of the Code of Civil Procedure, follow the original decree or order "

Amendment of Sub-Section (1) of Section 14.

2. For the first thirteen words of sub-section (1) of section 15 of the Mysore Chief Court Regulation, 1884, as amended by Regulation II of 1890, the following shall be substituted, namely, :-

" All criminal appeals other than appeals referred to in section 13, and all civil appeals other than appeal referred to in sections 13 and 14, "

Amendment of sec 584 of the Civil Procedure Code, 1884.

3. The words " or by the Chief Court in exercise of its appellate jurisdiction under Section 14 of the Mysore Chief Court Regulation " shall be inserted after the words " subordinate to the Chief Court " in Section 584 of the Civil Procedure Code, Regulation II of 1884.

[Handwritten signature]
5 Dec 1890

[Handwritten signature]

...shall be subject to the order of the Court.
Section 11.

...it is expedient to further amend the Mysore
the Mysore High Court Regulation, 1884; His Highness
the Maharaja is pleased to enact as follows:

1. The following shall be added as sub-sections to
section 14 of the Mysore High Court Regulation, 1884 as
amended by Regulation II of 1890, namely, -

...of a new
...to be
...of the Mysore
...High Court
...Regulation, as amended
...by
...of 1890

" (4) All civil appeals referred to in this Section shall
be heard and disposed of by a Judge of the High Court
sitting singly. Second appeals against such decisions
shall, in cases in which second appeals are allowed by
the law, be to a Bench consisting of two other Judges of the
High Court. Where there arises a difference of opinion
between the two Judges comprising a Bench hearing such a
second appeal, the decision shall, notwithstanding any-
thing contained in Section 15 of this Regulation or sec-
tion 575 of the Code of Civil Procedure, follow the original
decision or order.

2. The words "and civil appeals after than those re-
ferred to the Section 14" shall be inserted after the
words "Section 13" in subsection (1) of Section 15 of
the said Regulation, as amended by Regulation II of 1890

...of sub-
...of
...of

3. The words "or by the High Court in exercise of
appellate jurisdiction under section 14 of the Mysore
High Court Regulation" shall be inserted after the
words "subordinate to the High Court" in section 184 of
the Civil Procedure Code of 1884.

...of
...of the Civil
...Code,
...of 1884

(92)

Under Section 14 of the Mysore Chief Court Regulation appeals from the decisions of Munsiffs and subordinate judges in the Bangalore Division ~~comprising the Districts of Bangalore~~ ~~Kolar and Tumkur~~ lie direct to the Chief Court *Consequently* after the abolition of the District and Sessions Court of Bangalore in 1907. These appeals have, under section 15 of the said Regulation, to be heard by a Bench of two judges. It is ~~reported~~ *represented* by the Chief Court that this arrangement involves considerable loss of valuable time of that Court, as cases which are disposed of by a single District Judge *in the District Judge* in the other divisions of the State have, in the Chief Court, to be heard by a Bench of two judges. With a view to bring the courts of the Bangalore Division into line with the courts of the other two divisions, and also to facilitate the speedy disposal of work in the Chief Court, which is said to be ~~somewhat~~ in a congested ~~state~~ *at present*, it is ~~now~~ *proposed*, ~~on the recommendation of the Chief Court~~, to empower a single judge of that court to hear and dispose of Civil appeals filed under section 14 of the Chief Court Regulation. ~~This change necessarily involves the grant of a right of second appeal~~ *to a Bench of two judges, just as in respect of appeals disposed of in the other two divisions.* *be made in* The amendment proposed ^{a 3^a} to the Code of Civil Procedure (vide Clause *3*) is consequential to the grant of ~~the right of~~ second appeal above referred to.

*on the recommendation of
Chief Court*

*against the decision
Single Judge*

H

Ld

Letter

Legis 3-09-4

D. O. No. 7/1585

(93)



Camp Mysore

BANGALORE

14 October 1910

Dem Si Hebl
I am desired to acknowledge the receipt of

your D.O. letter No. 1588, dated the 5th October

1910, forwarding a draft of a Regulation further to
amend the Mysore Chief Court Regulation, and, in re-
ply, to state that the Resident sees no prima facie
objection to the draft being laid before the Legis-
lative Council.

Ans Sincerely
M B W as Ambr

T. Ananda Row Esqr., C.I.L.,

Dewan of Mysore.